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Agenda item 45
Question of the Falkland Islands (Malvinas)

Letter dated 19 November 2001 from the Permanent Representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

We have the honour to convey to you the text of the exchange of notes (see annex) recording an understanding between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Argentine Republic to carry out a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas).

We request that the present letter and its annex be circulated as a document of the General Assembly, under item 45 of the agenda.

(*Signed*) Arnoldo M. **Listre**
Ambassador
Permanent Representative of the
Argentine Republic to the United Nations

(*Signed*) Jeremy **Greenstock**
Ambassador
Permanent Representative of the
United Kingdom of Great Britain and Northern Ireland
to the United Nations

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Annex to the letter dated 19 November 2001 from the Permanent Representatives of Argentina and the United Kingdom of Great Britain and Northern Ireland to the United Nations addressed to the Secretary-General

Buenos Aires, 11 October 2001

Your Excellency,

I have the honour to refer to the shared commitment of our two Governments to carry out a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas), as referred to in the Joint Statement of 14 July 1999, and in the light of the obligations in the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (hereinafter the "Ottawa Convention"), to make the following proposals.

1. The Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter the "United Kingdom") and the Government of the Argentine Republic agree that the following formula on sovereignty, based on the formula contained in the Joint Statement of 19 October 1989, applies to this Exchange of Notes and to the arrangements made therein, as well as to their results:

(1) Nothing in the content of this Exchange of Notes and the arrangements made therein, or in the outcome thereof, shall be interpreted as:

a) a change in the position of the United Kingdom with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;

b) a change in the position of the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas;

c) recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

(2) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence or in application and/or interpretation of this Exchange of Notes and the arrangements made therein, or of their results, shall constitute a basis for affirming, supporting, denying or undermining the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

Feasibility Study

2. A feasibility study (hereinafter "the Study") shall be carried out regarding clearance of land mines in the Falkland Islands (Islas Malvinas).

Phases and Content of the Study

3. The Study will be carried out in three phases:

3.1. A Preliminary Study, which will consist of an initial assessment to determine, inter alia: the objectives, methodology, stages of implementation, timetable and resources required for the work needed during each implementation phase of the Main Study. In this phase, both Governments will provide any documentation and information at their disposal needed for carrying out the Study, in particular records of minefields.

3.2. A Main Study, which will include execution of the work for which the Preliminary Study has established a need, and which may include:

3.2.1. conducting an analysis of minefields in order to determine their location, composition and density and the distribution of the land mines which they contain;

3.2.2. conducting an analysis of soil conditions in the minefields, including its composition and vegetation, where the Joint Working Party considers it to be necessary;

3.2.2. assessing the availability and suitability of the methods and techniques normally used to detect, clear and dispose of land mines;

3.2.4. establishing procedures for clearing land mines which are consistent with the International Standards for Humanitarian Mine Clearance Operations applicable at the time this Exchange of Notes takes effect;

3.2.5. determining an order of priority among minefields for the clearance of land mines, taking into account nearness to centres of population, based on the most efficient use of the human, material and financial resources required to perform the task;

3.2.6. identifying the institutions or organisations which satisfy the necessary criteria for performing the task of land mine clearance, duly complying with the parameters laid down for such work, and evaluating the information technology requirements for handling that task;

3.2.7. evaluating the costs and risks – including environmental risk -of each option viewed as technically feasible and producing a cost-benefit analysis, establishing an order of preference for the various options.

3.3. A Final Report, which will set out the conclusions reached after carrying out the

Preliminary and Main Studies and which will make recommendations to both Governments regarding future action.

Carrying out the Study

4.1 The Study will be carried out by both Governments by means of a joint British-Argentine working party (hereinafter "the Joint Working Party"). The Joint Working Party will be made up of Delegations appointed by each Government, and will meet at the request of either Government at a time and place convenient to both. The Joint Working Party will act by common accord and in accordance with the provisions of this Exchange of Notes.

4.2 Two project managers could be appointed by the Joint Working Party to manage the conduct of the Study, one of them to be appointed by the Government of the United Kingdom and the other by the Government of the Argentine Republic. The Joint Working Party will retain overall control of the feasibility study at all times and for all phases of the Study.

5 The Joint Working Party will determine the timetable and manner of carrying out the Preliminary Study, and any work which is necessary in the Islands as well as its scope.

6. The Joint Working Party may recommend commissioning any experts which it considers necessary to advise it on substantive matters which arise while the Study is being carried out.

7. The Joint Working Party may recommend consulting organisations which specialise in land mine clearance and asking them for opinions and advice.

8. The Joint Working Party will approve successively

8.1 the conclusions of the Preliminary Study;

8.2 the conclusions of the various phases of the Main Study, in accordance with the timetable and methodology laid down by the Preliminary Study;

8.3 the conclusions of the Final Report.

Financing the Study

9. The Government of the Argentine Republic shall bear the costs entailed by the Study with respect to land mines which were laid by the Argentine Armed Forces in the Falkland Islands (Islas Malvinas).

10. The Government of the United Kingdom shall bear the appropriate proportion of the costs entailed by the Study with respect to land mines which were laid by the British Armed Forces in the Falkland Islands (Islas Malvinas).

11. The Joint Working Party will prepare the budgets for the various phases of the Study, and the Government of the Argentine Republic shall approve them as a pre-requisite for releasing the funds for carrying out the work. The Government of the United Kingdom shall do likewise to the appropriate extent.

12. The Joint Working Party will produce accounts for expenditure actually incurred during each phase of the work of the Study, and the Government of the Argentine Republic shall approve them. The Government of the United Kingdom shall do likewise to the appropriate extent.

The Applicable Law

13. The applicable law will be the international rules and standards in force. If acts or activities relating to the practical implementation of the Study indicated that other rules were to be applied,

such rules and their application shall have an ad hoc nature, a necessary consequence of this Exchange of Notes and as such shall be subject to the formula on sovereignty agreed above.

Communication

14. Both Governments will jointly send the text of this understanding to the Secretary-General of the United Nations for distribution as an official document of the General Assembly, under the heading "Question of the Falkland Islands (Malvinas)" of the agenda for the 56th Session. The Final Report will be similarly forwarded.

15. Both Governments will submit the relevant reports, in the light of requirements under the Ottawa Convention.

If the foregoing proposals are acceptable to the Government of the United Kingdom, I have the honour to propose that this Note together with Your Excellency's reply in that sense should constitute the understanding reached between our two Governments in this matter, which will take effect on the date of your reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

(*Signed*) Rodriguez Giavarini

Adalberto **Rodriguez Giavarini**

11 October 2001

Mr. Minister,

I have the honour to refer to your Note of the 11 October 2001, which reads as follows:

Your Excellency,

I have the honour to refer to the shared commitment of our two Governments to carry out a feasibility study on the clearance of land mines in the Falkland Islands (Islas Malvinas), as referred to in the Joint Statement of 14 July 1999, and in the light of the obligations in the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction (hereinafter the "Ottawa Convention"), to make the following proposals.

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c) recognition of or support for the position of the United Kingdom or the Argentine Republic with regard to sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas

(2) No act or activity carried out by the United Kingdom, the Argentine Republic or third parties as a consequence or in application and/or interpretation of this Exchange of Notes and the arrangements made therein, or of their results, shall constitute a basis for affirming, supporting, denying or undermining the position of the United Kingdom or the Argentine Republic regarding the sovereignty or territorial and maritime jurisdiction over the Falkland Islands, South Georgia and the South Sandwich Islands and the surrounding maritime areas.

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10. The Government of the United Kingdom shall bear the appropriate proportion of the costs entailed by the Study with respect to land mines which were laid by the British Armed Forces in the Falkland Islands (Islas Malvinas).

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13. The applicable law will be the international rules and standards in force. If acts or activities relating to the practical implementation of the Study indicated that other rules were to be applied,

such rules and their application shall have an ad hoc nature, a necessary consequence of this Exchange of Notes and as such shall be subject to the formula on sovereignty agreed above.

Communication

14. Both Governments will jointly send the text of this understanding to the Secretary-General of the United Nations for distribution as an official document of the General Assembly, under the heading "Question of the Falkland Islands (Malvinas)" of the agenda for the 55th Session. The Final Report will be similarly forwarded.

15. Both Governments will submit the relevant reports, in the light of requirements under the Ottawa Convention.

If the foregoing proposals are acceptable to the Government of the United Kingdom, I have the honour to propose that this Note together with Your Excellency's reply in that sense should constitute the understanding reached between our two Governments in this matter, which will take effect on the date of your reply.

I avail myself of this opportunity to renew to Your Excellency the assurances of my highest consideration.

I have the honour to confirm that the Government of the United Kingdom accepts the arrangements proposed in Your Excellency's Note and that Your Excellency's Note and this reply record the understanding of our two Governments with regard to this matter.

(*Signed*) Robin Christopher

Robin **Christopher**
HM Ambassador